

Sixth Appellate District

San Jose, California

MONDAY, JULY 26, 2004

H026382 SETTLE v. DEPARTMENT OF MOTOR VEHICLES

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 26, 2004

H025526 CORTINAS on Habeas Corpus

The trial court's July 3, 2002 order granting defendant's release is reversed. The trial court is directed to enter an order denying defendant's petition for a writ of habeas corpus. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 26, 2004

H025621 PEOPLE v. HOENINGHAUS

The judgment is reversed. The matter is remanded to the trial court with directions to conduct a new hearing on the motion to suppress previously filed by defendant. If the court grants the motion, then it shall afford defendant the opportunity to withdraw his plea of no contest. If the court denies the motion, then it shall reinstate the judgment. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 26, 2004

H026899 PEOPLE v. ACKERMAN

By the Court:*

Appellant's request for permission to file a late petition for rehearing is granted and the clerk of the court is directed to file said petition for rehearing forthwith.

Appellant's petition for rehearing is granted.

Appellant may serve and file a supplemental opening brief on or before 20 days from the date of this order. Respondent may serve and file a supplemental response brief within 20 days after the filing of appellant's supplemental opening brief. Appellant may file a supplemental reply brief within 10 days from the date of filing of the supplemental response brief.

The matter will be resubmitted upon completion of supplemental briefing or if no supplemental briefs are filed, upon the expiration of the time for filing of said supplemental briefs, whichever date is earlier.

Filed: July 26, 2004

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams, J.

Sixth Appellate District

San Jose, California

TUESDAY, JULY 27, 2004

H026704 NYULASSY v. LOCKHEED MARTIN CORPORATION

Our de novo review of the record leads us to conclude that the arbitration clause in the employment agreement is unconscionable. Therefore, we affirm the trial court's order denying defendant's motion to compel arbitration. (published) (Walsh, J.*; We concur: Rushing, P.J., Premo, J.)

Filed July 27, 2004

*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

H026133 PEOPLE v. JORDAN

By the Court:

The submission order in the above-entitled matter dated June 17, 2004, is hereby vacated. The matter will be resubmitted upon completion of supplemental briefing.

Dated: July 27, 2004

Bamattre-Manoukian, Acting P.J.

H026442 PEOPLE v. ACEVEDO

The judgment is modified to reduce the order of restitution to be paid by defendant to the Central Fire Protection District to the amount of \$270. As modified, the judgment is affirmed. (not published)

(Walsh, J.*; We concur: Rushing, P.J., Premo, J.)

Filed July 27, 2004

*Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

H026170 PEOPLE v. LUA

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed July 27, 2004

WEDNESDAY, JULY 28, 2004

H026490 PEOPLE v. PHAM

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Mihara, J.)

Filed July 28, 2004

Sixth Appellate District

San Jose, California

Wednesday, July 28, 2004 (continued)

H026414 PEOPLE v. ZAMORA

The judgment in case number CC301329 is affirmed. The order granting probation in case number CC268344 is affirmed. The order terminating probation in case number CC056526 is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 28, 2004

MISCELLANEOUS ORDER 04-01

Any party to a pending appeal in which an opinion has not yet been filed who wishes to file a supplemental brief pursuant to the recent United States Supreme Court decision in *Blakely v. Washington* (No. 02-1632. June 24, 2004) 542 U.S. ____; 124 S. Ct. 2531; 159 L.Ed.2d 403; 2004 WL 1402697; 2004 DJDAR 7581 shall not be required to file an application for leave to file a supplemental opening brief prior to filing the supplemental brief.

Any supplemental brief filed pursuant to this order shall prominently state on the front cover of the brief that it is a "Supplemental Brief filed pursuant to *Blakely v. Washington* (No. 02-1632. June 24, 2004) 542 U.S. ____; 124 S. Ct. 2531; 159 L.Ed.2d 403; 2004 WL 1402697; 2004 DJDAR 7581." Where a supplemental opening brief is filed pursuant to this order, the time for filing respondent's brief shall be extended by 15 days. If respondent's brief has already been filed, respondent shall have leave to file a supplemental respondent's brief within 15 days of the date of filing of the supplemental opening brief.

Dated July 28, 2004

RUSHING, P.J.

THURSDAY, JULY 29, 2004

H026365 PEOPLE v. SANCHEZ

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated July 8, 2004, is hereby vacated for the purposes of supplemental briefing pursuant to *Blakely v. Washington* (No. 02-1632. June 24, 2004) 542 U.S. ____; 124 S. Ct. 2531; 159 L.Ed.2d 403; 2004 WL 1402697; 2004 DJDAR 7581. The cause will be resubmitted upon completion of supplemental briefing.

Dated: July 29, 2004

Rushing, P.J.

Sixth Appellate District

San Jose, California

Thursday, July 29, 2004 (continued)

H026349 ASHCRAFT, as Trustee, etc. v. PITTENGER
The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 29, 2004

H026562 ASHCRAFT, as Trustee, etc. v. PITTENGER
The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 29, 2004

H026006 PEOPLE v. WALMSLEY
The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 29, 2004

H026452 LINANE, et al. v. CRUVER, as Executor, etc.
The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 29, 2004

H024375 REEVES v. SAFEWAY STORES, INC.
The judgment is reversed. (published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed July 29, 2004

FRIDAY, JULY 30, 2004

H025651 PEOPLE v. KILLMAN
By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated May 4, 2004, is hereby vacated. The court will resubmit the matter once the California Supreme Court files its opinion in People v. Leal, Supreme Court case No. S114399.

Dated: July 30, 2004

Mihara, Acting P.J.